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To: US Patent & Trademark Office **From:** Joanne Ryan
Group Art Unit: 3774;
Examiner Thomas Sweet

Fax: 571-273-8300 **Pages:** 3 (including cover)

Phone: **Date:** December 29, 2008

Re: 10/789,398 **CC:**

Urgent **For Review** **Please Comment** **Please Reply** **Please Recycle**

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Please see the attached Notice of Appeal and Petition for Extension of Time.

Serial No.: 10/789,398

**RECEIVED
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PATENT & TRADEMARK OFFICE**

Applicant : Kathleen M. Miller et al.
Serial No. : 10/789,398
Filed : 02/27/2004
Title : IMPLANTABLE OR INSERTABLE MEDICAL DEVICE RESISTANT
TO MICROBIAL GROWTH AND BIOFILM FORMATION
Art Unit : 3774
Examiner : Thomas Sweet
Conf. No. : 4925
Docket No. : 98-P0151US2

Mail Stop AF
Via Facsimile: 571-273-8300
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SIR:

**PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a) and
NOTICE OF APPEAL**

Applicants hereby petition the Commissioner to grant a three-month extension of time, up to and including Monday, December 29, 2008, in which to respond to the Final Office Action dated June 27, 2008 in the above-identified application. December 27, 2008 being a Saturday and December 28, 2008 being a Sunday, this Notice of Appeal is being timely filed. Authorization is hereby given to charge the three-month extension fee, i.e. \$1,110, to the undersigned attorney's PTO deposit account No. 50-1047 accordingly.

12/30/2008 HMARZI2 0000004 501047 10789398

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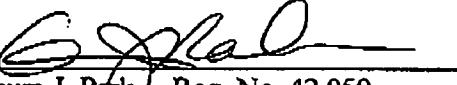
Serial No.: 10/789,398

DEC 29 2008

Applicant hereby respectfully appeals to the Board of Patent Appeals and Interferences from the decision of the Primary Examiner dated June 27, 2008 finally rejecting the pending claims in this application.

Authorization is hereby provided to charge Deposit Account No. 50-1047 the appeal fee in the amount of \$540. It is further requested that the U.S. Patent and Trademark Office charge any additional amounts due, including any additional extensions of time that may be required, or credit any overpayments made to Deposit Account 50-1047.

Applicants' undersigned attorney may be reached by telephone at (908) 518-7700.
Respectfully submitted,


Keum J. Park Reg. No. 42,059Date: 12/29/08

Attorney for Applicant

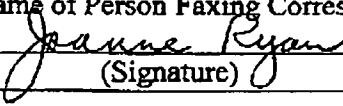
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I certify that this transmittal and any attached document(s) are being facsimile transmitted under 37 C.F.R 1.8 to the United States Patent and Trademark Office on 12/29/08 via facsimile to: 571-273-8300.

Joanne Ryan

(Printed Name of Person Faxing Correspondence)


(Signature)